

APPENDIX I

WRITTEN COMMENTS FROM THE PUBLIC

Twenty comments were received about the Osprey Assessment Report. The comments are included in this Appendix in total. They reflect a wide range of opinion.

Some questioned the Corps' authority and the Authorized Purposes Study scope. Others questioned the transparency and balance in the approach taken by Osprey in conducting its Assessment. Many opinions were contradictory. For example, several reinforced the notion that the Mississippi River basin should be included, but that the representation should be expanded beyond that proposed. Others, however, thought there should be no representation on the proposed Executive Council outside the Missouri River basin. A few people noted that Minnesota is a beneficiary of hydropower and should be included as one of the states on the Executive Council. A number of individuals or organizations commented about specific authorized purposes. Several people commented about the importance of including the Tribes during the course of the Authorized Purposes Study.

The letters submitted to the Institute are provided in chronological order on the following pages.



Ms. Brooks,

Despite an acknowledgment of the damage that the dam and reservoir construction on the Missouri River system inflicted on the 28 tribes in the Missouri River basin, the MRAPS Osprey Final Report fails to reflect the appropriate place for tribal governments in the upcoming Authorized Purposes Study.

Tribal concern and input was not considered in a meaningful way during the shaping of the 1944 Flood Control Act. By any reasonable measure, tribes have been and continue to be the most severely and negatively impacted by the management decisions made by the Army Corps of Engineers. As a result, the upcoming Authorized Purposes Study should be seen as an important opportunity to bring tribal governments to the table and include their thoughts and ideas in the shaping of future Missouri River policy.

Instead, the Osprey Report relegates tribes, once again, to a (yet to be published) addendum and fails to call for tribal involvement at the Executive Council level, where decisions would actually be implemented. The mere consideration or recommendation of moving forward in this process without actively engaging Tribal governments in all levels of the informational and implementation strategies represents the institutional segregation and racism that has plagued Missouri River management for most of a century. Addendums and “separate but equal” talking groups are not sufficient forms of engagement. The failure to collect input from tribes for inclusion in the main body of the Osprey Final Report is completely unacceptable. The failure of state leaders to productively work with Tribal governments in the past should not be used as an excuse to avoid the active engagement of Tribal governments in the upcoming study.

That this assessment would be published on a topic that is so vital to the future of Tribes in the Missouri River basin with only a “preliminary design” of “**possible**” processes for Tribal engagement is a complete embarrassment to the policy-making process and calls into question the overall validity of the Authorized Purposes Study.

Jason Yates

Director of Operations and Strategy
The Harvest Initiative, Inc.
www.harvestinitiative.org

The St. Joseph Regional Port Authority Board of Commissioners at their March 9, 2010, meeting, voted to duly express to the Missouri River Authorized Purposes Study panel, the importance of maintaining navigation, flood control, power generation, water quality, water supply, and irrigation as the primary purposes of the Missouri River. In a time of economic uncertainty, and national energy concerns, navigation and power generation from the river are paramount to the economic well being of the states along the Missouri River and to the entire United States. The water flow from the Missouri River has a direct correlation to the Mississippi River and the United States water transportation commerce. The Commissioners would encourage the panel to look at the national economic interest and the states aggregate economic impact as the key drivers to decisions made.

Sincerely,

Brad C. Lau
Sr. Vice President, Economic Development
St. Joseph Area Chamber of Commerce
St. Joseph Regional Port Authority
www.saintjoseph.com

Ms. Gail Brooks,

From correspondence received from Tim McCabe of the Osprey Group, we understand you are the correct person to have comments relative to the ongoing Missouri River Authorized Purposes Study addressed. Please accept these comments on behalf of the Missouri River Joint Water District, which is a legally organized political entity under the laws of the State of North Dakota.

Comments as follows:

- It appears that the Osprey Group is recommending an executive advisory committee which will be comprised of one State representative from each of the Missouri River Basin states and 2 State representatives from the Mississippi River Basin states. Questions and comments as follows:
 - What is the authority within the enabling legislation (the 2009 Omnibus Appropriations Act) which allows or directs the Corps to include entities in this process which are not geographically located within the Missouri River Basin.
 - What 'weight' will the involvement of Mississippi River Basin states have in the process. It appears intuitive that their concerns and vision of Missouri River system needs may not correspond to the concerns and vision of system management by the Missouri River states.
 - While we understand the need for the COE to work with a smaller focus group on this issue, is a committee comprised of only one representative from each State an adequate sized forum for State and public input. We suggest the committee be expanded to include a larger number of representatives, and that at least one (or more) representative from each State be a non-State employee, appointed by the Governor of each State.
 - Why would the comments and concerns of the executive advisory committee be limited to advisory only; how can the basin States be assured that their concerns receive real consideration if the Corp is not required to incorporate such issues in their final recommendations on this issue.
- The Osprey Report, and subsequent meetings held on this issue, appears to indicate limited tribal involvement in this process to date. Questions and comments as follows:
 - Why would tribes of the Missouri River Basin States not be represented on the executive advisory committee--- the same committee which is envisioned to represent all other State concerns. Why is there contemplation of a separate tribal advisory committee. If such separate tribal executive advisory committee is formed, how is coordination achieved between the committees.
 - We note that the Corp has planned a series of tribal meetings through August 19, 2010. In that list of potential meeting sites we see no meetings scheduled for either the Standing Rock Sioux Tribe (at their tribal offices of Fort Yates, ND), nor for the Three Affiliated Tribes (at their tribal offices of New Town, ND), nor for the Fort Peck Assiniboiné Sioux Nation (at their tribal offices of Poplar, MT). This same observation applies to other tribes of the basin. We believe that the Corp cannot get full involvement and input from the tribes of the basin unless such meetings are held at tribal headquarters for the respective tribes. We suggest that such tribal meetings be held at tribal offices, not in communities located away from such offices.
- We note that the Osprey Report includes various tables on the population of the various basin states. Questions and comments as follows:
 - Including tables on population from the various States appears to imply that this study will be structured to accommodate the more populated states over the less populated states. If that is true, what is the rationale for this to occur and how does

- ‘population’ relate to environmental, cultural, economic and other needs of all the States.
- If ‘population’ had some relevance to the study, then certainly other categories have the same or greater relevance. Why wouldn’t tables showing land loss (due to the dams), or economic losses due to the recent drought, or cultural resources, or environmental resources --- and many other categories--- not also have relevance to the study and also be included.
- We note that the Osprey Report includes some interesting tables relative to the perspective of the importance of the current authorized purposes of the system. Questions and comments as follows:
 - From the personal surveys, we note that ‘flood risk management’, ‘water supply’, ‘water quality’, and ‘power generation’ were listed as extremely important purposes. How does the Corp intend to use this list of important purposes as they move forward in this process.
 - From the electronic surveys, we note that ‘water quality’, ‘water supply’, ‘fish and wildlife habitat’, and ‘recreation’ were listed as the most important purposes. How does the Corp intend to use this list of important purposes as they move forward in this process.
 - As this process moves forward we have the following questions and concerns:
 - We believe that considerable weight needs to be given to the economic impacts and realities of the Missouri river system management and purposes within each State. The Corp has at their disposal many reports which clearly show the importance of the Missouri to the various economic sectors within the States. We believe that a fair comparison and evaluation of these economic factors, compared across the entire basin, needs to occur.
 - We believe that the economic conditions caused or contributed to by the Missouri River system to the Mississippi system is not at the same level as the conditions within the Missouri basin. We believe that the Mississippi States may have their own ability to manage their system for their needs without imposing detrimental needs or demands upon the Missouri system. Any needs identified by the Mississippi States needs to be weighed first against their own ability to help themselves by modified management of their own system.
 - We believe the Authorized Purposes should be sensitive to a drought management plan and be adaptive to all States of the Missouri River basin who may experience a drought; the final listing and management of the Purposes needs to be adaptive to climate and weather conditions.
 - As noted prior, we believe that a small executive committee, as proposed, is too limiting to allow all issues to be provided and discussed. We believe that the committee needs to be expanded to include more voices and that the discussion and wishes of such committee needs to be incorporated into the Corp process beyond the ‘recommendation’ level.

Thank you for this opportunity to comment on the Report. We await your responses to these issues.

Sincerely,

Ken Royse
Chairman
Missouri River Joint Water District



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY

65102

P.O. Box 899
(573) 751-3321

May 6, 2010

Via Electronic Transmission and U.S. Mail

Ms. Gail Brooks
U.S. Institute for Environmental
Conflict Resolution
130 South Scott Avenue
Tucson, AZ 85701

Re: Missouri River Authorized Purposes Study
Comments on Situational Assessment

Dear Ms. Brooks:

Thank you for the opportunity to submit comments on the Situational Assessment prepared by The Osprey Group for the Missouri River Authorized Purposes Study ("MRAPS"). Before providing specific comments, I would like to again express concern regarding the methodology used by Osprey, and sanctioned by the Institute, in conducting the Situational Assessment. Instead of a transparent process, in which participants were identified during the course of the assessment, information regarding the participants was kept confidential until the end, at which time it was too late for the public to evaluate whether the range of participants was balanced or representative. I disagree that the Administrative Dispute Resolution Act is applicable in this circumstance, and would encourage the Institute and the Corps of Engineers to increase their commitment to transparency throughout the remainder of the MRAPS.

With regard to the Situational Assessment, it is lacking with respect to recommendations to engage stakeholders in the MRAPS process. The formation of an "Executive Council" certainly does not fulfill the need for stakeholder engagement. To the extent an Executive Council is utilized to inform the study, it fails to include Mississippi River states, a key constituency served by the authorized purposes of the 1944 Flood Control Act. The 1944 Flood Control Act authorized the Missouri River Mainstem Reservoir System for the primary purposes of navigation and flood control. The Pick-Sloan Plan references the "important reductions in flood stages along the Mississippi River below the mouth of the Missouri" and how the controlled use of Missouri River water would "improve low-water flows in the Mississippi River thereby saving considerable dredging costs" and "assist in providing a 12-foot depth in the Mississippi River." The Pick-Sloan Plan, at the core of MRAPS, does not limit navigation and

Ms. Gail Brooks
Page 2

flood control to the Missouri River basin and clearly recognizes Mississippi River states as stakeholders. Consequently, these states must be given equal opportunity for participation in MRAPS. Similarly, I would encourage the Institute and the Corps to include the Corps' Mississippi Valley Division as a participant in any Executive Council.

I would also encourage the Institute and the Corps to reject and remove the Electronic Survey and its results from the Report. It was a straw pole, at best, and reflects only the opinion of those who bothered to go to the Institute's website. The survey questions were biased in favor of changing the authorized purposes, and were so vague that the answers provided little or no insight into the individual participant's perspective. Moreover, the content of the questions was scoping in nature, which created confusion with respect to the formal scoping process under the National Environmental Policy Act scheduled for this summer.

Finally, it should be noted that the Attorney General sent a letter to Assistant Secretary Darcy concerning the scope of the MRAPS on February 22, 2010 and has not yet received a response. A copy is attached. The Attorney General expressed concern that the scope of the MRAPS currently exceeds Congressional authority. If the Corps decides to conduct the study as actually authorized, the scope of the study should be more limited than envisioned by Osprey and the Institute. This in turn may negate the need for the Executive Council and place more emphasis on stakeholders who are in a better position to evaluate Congress' singular question – which is to determine “if changes to authorized purposes may be warranted.”

Thank you again for the opportunity to comment.

Sincerely,

CHRIS KOSTER
Attorney General

/s/ Jennifer S. Frazier

Jennifer S. Frazier
Assistant Attorney General

/jf



Jeremiah W. (Jay) Nixon, Governor • Mark N. Templeton, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

May 6, 2010

Gail Brooks
U.S. Institute of Environmental Conflict Resolution
130 South Scott Avenue
Tucson, AZ 85701

Dear Ms. Brooks:

I am writing to provide the State of Missouri's comments on the Missouri River Authorized Purposes Study (MRAPS) Situation Assessment (Assessment) conducted by The Osprey Group (Osprey). The State of Missouri is disappointed in the process thus far. This was the first major step in the MRAPS, it was important to get a good start, and the Assessment failed miserably.

The Assessment raised many concerns about the current direction of MRAPS. Within the Assessment there are four main areas of concern:

1. The course set by the Corps of preparing an Environmental Impact Statement and recommending alternatives exceeds its statutory authority.
2. Problems related to transparency and neutrality of the Assessment and continuing aspects of the MRAPS.
3. Ensuring the inclusion of all relevant stakeholders, which includes not only all Missouri River Basin states, but also all states along the Mississippi River.
4. The extrapolation of findings from a broad based, poorly designed survey.

Prior to finalizing a design for the public participation process, a resolution of the issue that Missouri Attorney General Chris Koster raised in his letter dated February 22, 2010, regarding the Congressionally-defined scope of MRAPS must be made. The State of Missouri believes that the course set by the Corps of preparing an Environmental Impact Statement and recommending alternatives exceeds its statutory authority. This fundamental issue needs to be resolved before the Corps can determine how best to involve the public and should be resolved prior to completing the Assessment.

The purpose stated on the U.S. Institute for Environmental Conflict Resolution's Assessment web site was to "conduct an assessment of how the Corps can best design and implement consultation with the Tribes and public involvement for the MRAPS." The discussions of the issues appeared to be more of a scoping effort than related to the purpose of the Assessment. This added unnecessary confusion, especially given the already complex situation of so many Missouri River studies that the Corps is currently conducting. The characterization of the issues should be removed from the report.

The report highly emphasized that the effort was designed to achieve an “understanding and acceptance” through a “transparent, inclusive and responsive” study process. The lack of transparency with respect to the participants considered and chosen for the Focus Groups and private interviews created suspicion and distrust in the MRAPS process throughout the basin. The Assessment was shrouded in secrecy and garnered mistrust. This is ironic given that it was to identify the best way to achieve public involvement. Possibly more important than the output from the Assessment are the lessons that should be learned with respect to full and open public dialogue for MRAPS going forward.

Not only does the Corps need to go the “extra mile” to obtain acceptance of this study, so should have Osprey. In several key places within the Situational Assessment, Osprey seems to have been co-opted by proponents of the study and its goals. Noting that “...various interests have the potential to derail the study process” implies that there is a right and wrong side to the process itself. *Emphasis added.* The failure to maintain a fair balance by a “3rd party without any stake in the issues” will lead to further distrust among the stakeholders.

The Basic Framework for a “Dialogue Group” or Executive Council (Council) suggests one member is appointed by each governor of the Missouri Basin states. Without additional information regarding how such a Council would be engaged in the MRAPS process, we would object to this approach. Great potential exists for the same old way of doing business if there is a membership limited to Missouri River basin states and any type of voting or decision making. Even though the Assessment states that votes will never be taken and the Council would not be a decision making body, it is inherent that to make recommendations, a decision must be reached and essentially a voting process determines the ultimate decision.

Furthermore, Missouri would strongly object to any Council that did not include Mississippi River states as equal members. The process must be inclusive of those affected. Osprey concludes that “it is important that the study recommendations to Congress be widely accepted.” Osprey stated during its March 8, 2010 meeting in St. Joseph that there is broad support for including Mississippi River states on the Council. Besides Missouri, Iowa, and Minnesota that are part of the Missouri River basin, the other eight Mississippi River states are all affected by MRAPS and should all have representation on the Council. They must be part of any “widely accepted” recommendations, and must be included from the beginning. In addition, the Corps of Engineers, Mississippi Valley Division should be included on the Council.

Missouri would also like to point out Osprey’s exclusion of Minnesota as a basin state. Although only a small portion of the southwest of Minnesota is part of the basin, the State of Minnesota receives a significant amount of power generated from the mainstem dams. The fact that Minnesota was not included, adds to the concerns about the Assessment.

Osprey's use of the electronic survey and its results has many deficiencies. From a downstream user perspective, the electronic survey was poorly designed and offered little opportunity for many of the stakeholder groups to adequately address their concerns. The survey seemed to be biased as to predominately address issues defined by MRAPS proponents and not the entire basin and affected areas. Additionally given the survey monkey sampling shortcomings, and with no attribution to location of the responses, the data and summaries provided by Osprey are invalid. This survey effort in no way represents a summary of the perspectives of basin stakeholders. Given the complexity and political weight of this issue, casual survey efforts created with limited stakeholder input should not be introduced to the process. It is also unclear how this related to the study's purpose, to design a public involvement process.


Furthermore, comments such as "...the survey results show that some purposes continue to have widespread support throughout the basin while others do not" is misleading and attempts to provide more credibility and geographical attribution to the method than it warrants. Without attributing the survey results to specific locations such as states, and providing for a sampling strategy that represents the varied interests in the basin, we contest all of the summaries/ findings/references based on this survey approach. If this is not removed from the report as suggested above, we request that the limitations of the effort and any results be more clearly defined as interpretations of the authors based on very limited information and without any statistical basis.

The Corps is moving into the scoping phase. We understand that it plans to use an open house meeting format. Given the troubled start of the MRAPS, there is a real need for extra efforts in ensuring transparency. Open meetings and open access to information should be a main focus in the steps ahead. Traditional public meetings are critical to maintain transparency so that everyone can hear the dialogue and have an opportunity to provide input. In addition to the open house portion, we recommend that the Corps include traditional meeting format during the scoping process.

Thank you for this opportunity to comment. Please do not hesitate to contact me if you have any questions.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES


Michael D. Wells
Chief of Water Resources

Mr./Mrs./Ms Brooks:

I am writing to you in regards to the Missouri River assessment being prepared for final draft. I have lived in Council Bluffs, Iowa my entire life. In that time I have seen the Missouri River in drought years as well as during floods. I spent many hot summer days fishing its banks and many cool fall days hunting along those same banks. I have seen the work done to maintain the channel for the barge traffic increase access for recreational boaters, casino riverboats, city water supply needs, and the effort put forth by Omaha, NE. to "beautify" their side of the river channel. In all the work that has been done, very little has been done in regards to fisheries or wildlife habitat. There have been purchases in recent years of adjacent farmlands in an attempt to "restore" some of the habitat lost after the channelization work, but it is a small portion of what was lost.

Although the effort to restore land to habitat is a great thing in my opinion, it is very difficult to restore an ecosystem that was lost to the channelization work so long ago. It will take time, money and effort to accomplish that. It is also difficult to "restore" habitat to its native state if the objections of a few can derail those efforts.

I attended the focus group meeting in Omaha with the intention of voicing my opinion regarding the river and its problems. I had that opportunity at the end of that meeting but was unable to complete my comments due to time limitations. In my opinion the most important issue should be the damage done to the fishery and the wildlife habitat since 1944 and how to proceed forward with a plan to reclaim/restore that habitat. I believe that every entity involved in that meeting will still have the ability to use the river for their purpose even if restoration work is prioritized. For example, the agriculture community will still be able to use water for irrigation, even when we are in drought conditions simply because America needs to eat. The various cities will still be allowed to use water for power generation and drinking water simply because they can not ignore the needs of their citizens. The efforts to minimize flooding will always be near the top simply because we do not want our friends or neighbors to lose their homes or farms. The barge industry will still be able to use the river as needed for transporting some commerce as needed although the economic benefit of doing so has diminished in recent years.

Recreational activities such as boating, skiing, canoeing etc. will also continue to exist regardless of the management plan in the future.

Unfortunately the only group who does not benefit from inaction or maintaining the status quo is the fishery and wildlife. They do not have the ability to come to the table and speak with the financial backing of the barge, farming, public official. They need to rely on everyday citizens much like myself to ask for our voices to be heard and given an equal chance to speak.

There were many different people at that meeting that have lived, worked or hunted/fished that river at that meeting as well. They wanted to be heard also. Essentially these individuals are likely more aware of the health of the river than any one else in that room. They are the last people asked for an opinion or input into what is going on with the river but should be the first. They know it like their own home. In many cases these people could be the best source of information available to a group since they have literally grown old with it. Most of the generation that lived before the river was channelized is deceased and can not tell anyone how vibrant it was. We now only know it to be the drainage ditch it has become. Only the "river rats" can tell you its personality because they have experienced it regularly. They will tell you it has a life and a pulse. Its fish and the wildlife it supports are its blood. They can also tell you when it has problems, and they have been trying. I would encourage the group to conduct interviews with as many people who fish, hunt and live everyday along its banks to get a better assessment of the problems this river faces. I would be surprised if some simple, common sense solutions were not also offered if those same people were asked.

Sincerely,

Don Christensen
Council Bluffs, Iowa

My name is Bill Smith I live in Sioux City Iowa.

I wish to have these views considered in the response to assessment of MARPS.

As a founding member of the Mo. Valley Waterfowlers Association ,I hope that the restoration & recovery process of the Mo. River includes in it's assessment the thousands of acres of migratory habitat that has been negatively impacted by the complete degradation of the River & it's river channel. Present issues such as the depth of the channel continue to negatively impact native hydrology issues. To which if you review the native hydrology impact, you would see that nearly 100% of native hydrology function of the flood plain has been lost.

This restoration & recovery process must include and address native hydrology issues and how the continued degradation of the River and it's channel have impacted habitats / ecosystems outside of the banks of the Mo. River and out in the flood plain itself. Remember this, many smaller tributaries feed into the river and have done so for thousands of years giving life to the wildlife that are seriously in trouble in the river. The web of life or that chain has seriously been manipulated to such a point that the river today cannot support or sustain the many species that have called the river it's home.

The Ecosystem has been changed and the web of life altered. Much of these large scale alterations / changes on the scale of the Mo. River take many years to truly reveal it's ultimate impacts to wildlife and their ecosystems. Will the committee of MRAPS recognizes the significant's of these changes and will they address them in their report is the question?

I also wish to point to 2 other large scale restoration and recovery projects in the United States to which the committee should look at to find the validity in what I say. The Everglades & The Chesapeake Bay. Both of those tributaries suffer because of changes in the tributary but also highly impacted by the tributaries that flow into them carrying many of the problems that negatively impact the ecosystem as a whole.

If we are to truly address the 3 species at risk we must engage and address issues that contribute to the life of the river itself. It is a living thing and to see parts of the ecosystem amputated from the rivers body and expect the river to sustain it's historical importance to the wildlife that depend on it for life, is much like asking the Committee of MRAPS to run a marathon with 1 leg and no use of a prosthetic.

In order to fully address the ecosystem issues of the said 3 species the committee and the Army Corps of engineers must address Flood plain issues such as wetlands, seasonal and temporary, re-connectivity of historical back water areas, restore hydrology function and ability, look at how all of the tributaries that feed into the river are managed and how they contribute to the negative impacts of the ecosystems of the 3 species in danger. Hydrology mitigation must be included as a means to encourage private land participation levels in this recovery process. Private land owners who may suffer from potential changes must be given the opportunity to be compensated for their assistance in the restoration and recovery process.

To suggest or say that the problem only exists with in the banks of the Mo. River is only going to provide a cosmetic fix that will forever have to be strictly managed by man and not mother nature herself. Do we want to endure these cost or can we is the question? Short term I think we can, but if the committee does not recognize the long term implications or impacts of a severely degraded flood plain and it's major roll in the overall health of the river ecosystems, the long term costs will

in fact be far more than all entities involved ever imagined. We will eventually lose these 3 species because we will not be able to support our surrogated efforts down the road. Sustainability and the Perpetuation of these species is going to highly be dependent upon our commitment TO THE RECOVERY OF THE WEB OF LIFE, THE ECOSYSTEM AS A WHOLE. BLUFF TO BLUFF.

For many, 30 or 50 years is considered a long term management plan but in relevance to how mother nature conducts business, that is a tick on the clock.

Sincerely,
William J. Smith
Sioux City Iowa

Mo. Valley Waterfowlers Association
Founding Member.
Sioux City
Delta Waterfowl Chairmen
Ducks Unlimited Member
Ikes National Member
IOU Member

Subsequent additional comment:

Gail I certainly appreciate your time and your quick response. I only hope from a natural resources perspective that we seriously look at or evaluate the economic impact of a few barges north of Omaha VS the long term Environmental cost associated to the recovery of the known 3 endangered species in this section of the river. Socially and economically the continued degradation of this section of river is unacceptable. The inconsistency of barge traffic north of Omaha must be considered and the reason why. Based on waterflow and spring melt issues barge traffic on the Upper Mo. River north of Omaha will never be consistent enough to be what many thought it would become in the 40's. The conditions just do not exist and most often do not permit such activity.

I could make some comments on Rail Road shipment of goods vs barge shipment of goods north of Omaha. What would the cost be if the Rail Road didn't have to pay for management of its rail road or terminals or repair? Would not the cost of goods by rail be cheaper? You see the barge industry doesn't truly have to endure these expenditures because the Corps manages them with tax payer dollars. I also think that the rail road should match the cost of shipment of goods by barge to the select few terminals we have north of Omaha. A subsidized payment by the government if need be that would not hold the said few barge terminals north of Omaha at the mercy of the rail road. To continue the degradation of the river for the sole purpose of 1 terminal north of Omaha who does not or has not received or has not been allowed consistent use by barge traffic should not come at the expense of the environment, habitat or the continued expense to we the tax payers. Presently the issue has been fronted as a means to keep rail way cost shipments north to this terminal somewhat honest or without the ability to price gouge them.

To top that off, I fully object to Mo. having the ability by consensus to literally stick this restoration and recovery process in the mud. This is to much power yielded by the term consensus of all to the authority and wishes of but 1. As you may already know, Mo. and the barge industry south are pulling out efforts to undermine the whole process of restoration and Recovery by asking that the project be un-funded by Congress. Whatever happened to the ground rules to which everyone

agreed upon? This action should not be ignored by all of the others who have dedicated a lot of time and effort to the process. It is disgraceful to let this go without reprimand.

Bill Smith



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

Ms. Gail Brooks
U.S. Institute for Environmental Conflict Resolution
Transmitted by e-mail to brooks@ecr.gov

RE: Comments on the Missouri River Authorized Purposes Study, Situation Assessment Report, April 2010, prepared by the Osprey Group for the USIECR

May 6, 2010

Dear Ms. Brooks:

The Corps has been tasked with the extremely difficult task of revisiting all aspects of the Missouri River, as we know it today. We commend them for being proactive by incorporating an approach that will allow for the optimal public input into this study process. The following comments were formed in reviewing the Involvement Situation Assessment of the Missouri River Authorized Purposes Study prepared by The Osprey Group in April 2010.

Section II. Background:

In hindsight it has become more apparent what the Corps, USIECR (U.S. Institute for Environmental Conflict Resolution), and The Osprey Group were hoping to accomplish with this assessment. Unfortunately, over the course of the assessment, there was a lot of confusion. It seemed like invitations to the focus groups and interviews came out of left field. People were, and still are, confused by the selection of interviewees and focus group members. Even now if one were to look at the distribution of participants in the focus groups it could be construed as unevenly weighted. We believe that the USIECR and the Osprey Group may have caused more confusion and harm to public relations than if the Corps had conducted the assessment themselves.

Section III. Context:

Although the Osprey Group's methods seemed confusing, the information that was collected seemed to represent the broad collection of views that are held today in the Missouri River Basin, highlighting the complexity of the situation at hand.

Section IV. Options for Moving Forward/Recommendations:

If the Corps is looking for public interaction in the MRAPS development, the Inform, Involve, and Collaborate process that the Osprey Group outlined in their report could be an effective method of incorporating public ideas. Its design must be as fair and as balanced as possible.

Inform – It is essential that the Corps be aggressive in providing easily understood information to a broad public audience during the MRAPS process. The entire process should be transparent; all pertinent documents should be posted in a central location for easy accessibility. That information would include the 1944 Flood Control Act, as amended, and other subsequent relevant legislation and judicial rulings. In addition, the Corps needs to inform and educate the public on the internal processes the Corps is using in this assessment, for example, the requirements and uses of the NED and Regional Economic Development. These processes and documents need to be provided and understood by the public.

Involve – When involving the public in the MRAPS process it is crucial that the Corps is not, or seem to be, exclusive. Several of the options the Osprey Group mentioned in their report under the “involve” section seemed that they could be perceived as exclusive, especially the technical working group, focus groups, and association meetings. Even the Osprey Report could be construed as seeming exclusionary or unfair in its ordering of the private navigation associations before MoRAST, an organization with a lot of history and broad representation. Furthermore, Open House/Workshops are not conducive in fostering an environment where people are comfortable in expressing their views. The Open House/Workshop format is better suited to inform the public. A public meeting format where people are encouraged to provide comments for all to hear is more effective.

The statement made in the “Technical working group” section “An option mentioned by some is the idea of having working groups that focus on each of the authorized purposes.” It would seem if working groups were formed for each authorized purpose then MRAPS would be meaningless. There would be an interest group for existing purposes but no voice for possible change. This approach would result in proponents of each currently authorized purpose advocating their position, and create a polarized environment.

Collaborate: The Osprey Group suggests an executive advisory council to the Corps appointed by each state governor. The council would provide a small group environment to discuss difficult issues. If the Corps forms the suggested council, it should also recommend that each member form a public task force in their jurisdiction to allow the representative to disseminate information and more clearly understand and communicate constituents' views. Each state would be responsible in forming the organization and membership for their perspective task forces.

A general comment about the Osprey Groups report and assessment is the apparent misunderstanding that Minnesota is included in the Missouri River Basin, since Minnesota was not consulted in the assessment or mentioned in the report.

Thank you for giving us the opportunity to comment on the assessment the Osprey Group created.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale L. Frink". The signature is fluid and cursive, with the first name "Dale" and last name "Frink" clearly distinguishable.

Dale L. Frink
State Engineer

DLF:KDC/0576

May 7, 2010

Gail Brooks

U.S. Institute of Environmental Conflict Resolution 130 South Scott Avenue Tucson, AZ 85701

Dear Ms. Brooks:

This letter is written to reiterate my concerns with the Missouri River Authorized Purposes Study (MRAPS) Situation Assessment process and subsequent recommendations. On March 26, I provided public comments to Mr. Tim McCabe, The Osprey Group (Osprey), and have attached them as a supplement to this email. The majority of my concerns remain as little, if any, change was made from the draft to the final report.

In the letter to Mr. McCabe, I noted the Situation Assessment process was characterized by a lack of purpose, transparency and inclusiveness. This lack has created early distrust and confusion with the MRAPS process. Regrettably, I maintain this belief to date and contend portions of the report recommendations have done the citizens of the Missouri River Basin a great disservice.

My ongoing concerns include several items. To begin with, Osprey's Executive Summary states, "This assessment produced several fundamental findings that point to a context in which conducting the Authorized Purposes Study will be challenging.[one of which is] The fact that various interests have the potential to derail the Study process, findings and recommendations." Their statement indicates a process preference and it infers they believe a "derailed" process would be adverse. Consequently, this begs the question of their neutrality.

In a subsequent sentence, the report states, "Regardless of this difficult context, there is a strong sense throughout the Basin that change is needed." A conclusion was drawn using a statistically flawed survey method. I believe this statement is in error and a direct result of a faulty situation assessment process in general.

Not only did the online situation assessment survey have minimal participation, I personally did not complete it and did not recommend it be completed by those I represent. It had only an extremely limited nexus to public involvement strategy and was otherwise pre-scoping in nature. It should have had no bearing on Osprey's charge to "determine how the Corps can best design and implement consultation with Tribes and public involvement for the Missouri River Authorized Purposes Study."

In addition, much of the focus group discussions were pre-scoping in nature as well, therefore; too much of the report is based upon information and statements that should never have been considered as important to the assessment.

As for the recommendations included in the final report, I recommend the Corps to simply hold traditional public meetings. Anything short of the inclusiveness and transparency of those style meetings will fall short of a good public participation process.

I am not supportive of the Executive Council (Council) concept and have no faith it will be implemented in a timely manner or at some point not necessitate voting whether direct or otherwise. In addition, I see no clearly articulated purpose for this Council. Nowhere in the report does it state what the group would do, for what specific reasons, or how much influence it would

have in the overall process. This component of the three-phase approach should be immediately dropped.

Additionally, the open house/workshop style meetings are ineffective in meeting the needs of stakeholders. Open house meetings neither provide adequate transparency of interest views nor do they provide stakeholders with consistent answers to questions. When questions are asked of federal agency staff, the questions/answers should be heard by everyone present to ensure consistency of answers. Nothing is more frustrating than to receive a variety of answers to the same question over several meetings. Consistency is likely not possible in the open house/workshop setting. The only format in which true transparency can be accomplished is with traditional public meetings.

Mississippi River interests should have equal representation with Missouri River Basin states if the Council proceeds. All Mississippi River states would potentially be affected by changes to the Missouri River congressionally authorized purposes. To allow only two Mississippi River states representation on the Council would be a disservice to the huge economic engine created as a result of Missouri River flows to Mississippi River commerce. Moreover, the Corps' Mississippi Valley Division should be included on the Council.

Sadly, what should have been simple became complex in Osprey's report. Public involvement in the MRAPS process should focus on transparency and inclusiveness. All that is necessary for this to occur is for the Corps to provide ample meeting opportunities where everyone can make statements and ask questions in a public manner. The process must be open to anyone (i.e. no secret invitation lists) and allow for everyone to hear the same answers to the same questions. All stakeholder comments should be made to all present (i.e. not to a transcriptionist in a corner), secrecy of any kind should be avoided and no favor, real or perceived, should be possible. Such a process would elevate participation to a level playing field which encompasses all states, tribes, category and geographic interests.

I appreciate the opportunity to provide these comments and look forward to the outcome being simplified to the basic requirements of such a public process.

Sincerely

Randy Asbury
Executive Director
Coalition to Protect the Missouri River (CPR)
moriver@howardelectricwb.com
www.ProtectTheMissouri.com

The Coalition to Protect the Missouri River (CPR) which represents the diverse interests of agricultural, navigational, industrial, utility and business-related entities in the Missouri and Mississippi River Basins.

Attachment to Comment Letter

From: Randy Asbury [moriver@howardelectricwb.com]
Sent: Friday, March 26, 2010 2:52 PM
To: 'Tim McCabe'
Cc: 'Ashley McCarty'; 'Bob Bacon (Bob@erc-env.org)'; 'Dale Ludwig (dludwig@mosoy.org)'; 'Dan Cassidy (dcassidy@mofb.com)'; 'David Sieck (farmrboy@aol.com)'; 'Doris Moore (dmoore@mofb.com)'; Emiliano Lerda (elerda@iowacorn.org); 'Garrett Hawkins (ghawkins@mofb.com)'; 'John C. Pozzo (jc Pozzo@ameren.com)'; 'Lynn M. Muench (lmuench@vesselalliance.com)'; 'Mindy Larson Poldberg (mpoldberg@iowacorn.org)'; 'Paul Rohde (PRohde@vesselalliance.com)'; Trent Summers (tsummers@mochamber.com)
Subject: MRAPS Situation Assessment Comments

March 26, 2010

Mr. Tim McCabe
The Osprey Group
P.O. Box 8
Boulder, CO 80306

Dear Mr. McCabe:

Thank you for the opportunity to provide comments in regard to the Osprey Group Missouri River Authorized Purposes Study (MRAPS) Situation Assessment presentation. I am also grateful for your graciousness in accommodating my scheduling requests throughout this process.

My comments are provided on behalf of the Coalition to Protect the Missouri River (CPR) which represents the diverse interests of agricultural, navigational, industrial, utility and business-related entities in the Missouri and Mississippi River Basins.

I continue to maintain this assessment has been characterized by a lack of purpose, transparency, and inclusiveness. This lack has created early distrust of the MRAPS process. I raised these and other concerns to Cherie Shanteau-Wheeler, Sr. Mediator/Sr. Program Manager, U.S. Institute for Environmental Conflict Resolution, in an email dated January 26, 2010 but, unfortunately, never received a response.

The MRAPS Situation Assessment website (<http://mraps.ecr.gov/>) indicates “[t]he purpose of this assessment is to determine how the Corps can best design and implement consultation with Tribes and public involvement for the Missouri River Authorized Purposes Study.” On the basis of that statement, I offer the following comments:

- Due to the limited information contained in the assessment, CPR refrains from supporting any of Osprey’s recommendations at this time;

- The inflammatory quotes dispersed throughout the presentation have done nothing but reopen old wounds stakeholders have spent years trying to heal. I have no understanding of their value or what connection they have to “public involvement”;
- The online assessment survey was pre-scoping in nature. Questions 1-5 had no nexus to a determination of how the Corps can best design or implement Tribal and public involvement. Question 6 was limited in options and was not representative of public involvement possibilities. The statistics should have no bearing on any recommendation for Tribal or public involvement;
- The purpose of the Senior Steering Council (SSC) is not clearly articulated. The explanation does not indicate what the group would do, for what specific reasons, or how much influence it would have;
- Osprey’s recommendation of an SSC over a consensus group perplexes me given the recent accomplishments of the Missouri River Recovery Implementation Committee (MRRIC). Consensus must form the basis of a decision-making process. Historically, voting groups (i.e. Missouri River Basin Association (MRBA), Missouri River Association of States and Tribes (MoRAST)) have created more acrimony than collaboration. The SSC appears to be a re-creation of these groups. CPR will not encourage the State of Missouri to participate in any group which provides advice or recommendations to the Corps by means of a voting process;
- Mississippi River stakeholders **must** be allowed to engage in every phase of this study. The potential economic impacts resulting from changes to the Missouri River authorized purposes to Mississippi River stakeholders are enormous. Their interests must be considered;
- With the Tribal Steering Council (TSC) undefined, non-Tribal stakeholders do not know what impact that process might have on their public involvement opportunities;
- If the SSC/TSC-type recommendation is selected, MRRIC is the logical nexus to MRAPS. No other consensus-based group has established geographic and authorized purpose balance as effectively as MRRIC; and,
- All MRAPS efforts should be replete with transparency, inclusiveness, and openness. These can best be provided through traditional, open-style meetings.

Unfortunately, the assessment creates more questions than answers. Historically, the SSC-type groups have not been effective in or representative of the Missouri River Basin. I find it unlikely the SSC would achieve greater results than a consensus-based group in today’s highly charged Basin atmosphere.

Please feel free to contact me if you have any questions.

Sincerely,

Randy Asbury
Executive Director
Coalition to Protect the Missouri River (CPR)
moriver@howardelectricwb.com
www.ProtectTheMissouri.com



121 SE First Street | PO Box 227
Madison, SD 57042-0227

Telephone: (605) 256-4536
Fax: (605) 256-8058

May 7, 2010

TO: brooks@ecr.gov

On behalf of East River Electric Power Cooperative, Inc. (East River), please accept these comments in response to the MRAPS Situation Assessment. East River provides wholesale electric power supply and transmission services to twenty-five non-profit rural electric cooperative and municipally-owned member systems. East River's member systems provide retail service to over 90,000 rural customers in eastern South Dakota and western Minnesota. East River relies on Missouri River hydropower for about 25% of its bulk wholesale power to serve its members' electric needs.

The Situation Assessment prepared by the Osprey Group is seriously flawed and proposes to convert the MRAPS into a closed governmental process offering, at best, supplicant status to interests which rely on the Missouri River to provide essential public services.

As an example of the flawed basis for Osprey's work, we point to the factual error in not recognizing Minnesota as part of the Missouri Basin. As a matter of fact, many Minnesota based non-profit cooperatives, municipally-owned utilities, and state agencies rely on hydropower from the Missouri River as an essential source of cost-based electric power.

The non-scientific based responses Osprey collected to identify current day priorities and perceived need for major change are interesting but certainly should not become the foundation for MRAPS. We note many of those interviewed represent state or federal agency perspectives.

Last, Osprey's recommended procedural construct of vesting an Executive Council comprised only of federal and gubernatorial appointees, while affording no standing to interests which rely on the Missouri River for essential services, is unacceptable.

Indeed, the non-profit utilities in the upper Great Plains which rely on federal hydropower, including East River on behalf of its retail members, represent a special interest. That special interest is to provide cost-based affordable electric power supply to rural areas, small communities, and state and federal entities. Continued access to cost-based federal hydropower is a primary element of being able to sustain affordable and reliable service to large segments of the upper Great Plains. We strongly urge this process to provide reasonable opportunity to represent the interest of those essential public services which rely on the Missouri River. In our view, the Osprey recommendation completely fails to do so.

Sincerely,

Jeffrey L. Nelson
General Manager

JN/sl

WATSON & JONES, P.A.

COUNSELLORS AT LAW

J. KEVIN WATSON
W. ROBERT JONES, III
DAVID S. HUMPHREYS
C. STEPHEN STACK, JR.
ELIZABETH MILLS BOONE*
A. SETH ROBBINS

RICKY G. LUKE OF COUNSEL

SUITE 1502 • MIRROR LAKE PLAZA
2829 LAKELAND DRIVE
JACKSON, MISSISSIPPI 39232
www.watsonjoneslaw.com

MAILING ADDRESS:
P.O. Box 23546
JACKSON, MS 39225-3546
TELEPHONE: (601) 939-8900
FACSIMILE: (601) 932-4400
WRITER'S DIRECT NUMBER

(601) 503-1920

*ALSO ADMITTED IN TN

May 7, 2010

Via Email

Gail Brooks

U.S. Institute of Environmental Conflict Resolution

130 South Scott Avenue

Tucson, AZ 85701

Email: brooks@ecr.gov

RE: Comments of Magnolia Marine Transport Company Regarding the Osprey Group's MRAPS Involvement Situation Assessment dated April 2010

Dear Ms. Brooks:

This letter is the comments of Magnolia Marine Transport Company about the Involvement Situation Assessment prepared by the Osprey Group, dated April 2010. In a letter from this firm to the Osprey Group dated March 26, 2010, Magnolia Marine previously submitted comments about the Osprey Group's Situation Assessment. In those comments, Magnolia Marine requested, among other things, that the following three components be included in the Osprey Group's recommendations to the Corps regarding MRAPS:

- (1) That MRAPS focus on the nationally significant economic impact of Missouri River flows support on Mississippi River commerce;
- (2) That any stakeholder advisory committee include equal representation of Mississippi River basin states and stakeholders; and
- (3) That MRAPS include a comprehensive, objective economic analysis that contemplates diminishing Missouri River flows support of Mississippi River commerce.

Because the Osprey Groups final assessment failed to include any of these three recommendations, Magnolia Marine's previous comments are attached to and incorporated again in this submission with hopes that they receive additional consideration by the Corps, U.S. Institute of Environmental Conflict Resolution, and the Osprey Group in the future.

Regarding recommendation 2 above, instead of equal representation of Mississippi River states and stakeholders, the Osprey Group's final assessment recommends an Executive Council made up of a single governor-appointed state employee representative from each Missouri River


Basin state and only "[t]wo government representatives invited from the Mississippi River basin." Such a representative scheme fails to reflect both the population and relative economic interests within the Missouri River basin and greatly under-represents the much greater population and economic interests of the larger Mississippi River basin. Furthermore, it is a failed model, as the State of Missouri has refused to participate in similarly-constituted groups, like MoRast.

In addition to ignoring the previous comments of Magnolia Marine, this recommendation of Osprey Group of a single state representative from just the Missouri River basin states ignores nearly all of the other comments submitted in response to Osprey's previous draft assessment presentation. Of the seven lengthy submissions of comments prior to Osprey's issuance of this final assessment, five of those comments stressed the need for equal representation of Mississippi River states and stakeholders. These included comments from, in addition to Magnolia Marine's, the Missouri River Dredgers Group, the Missouri Department of Natural Resources, the Coalition to Protect the Missouri River, and the American Waterways Operators.

That the recommendations of five of the seven lengthy comment contributors were ignored in Osprey Group's final Situation Assessment is alarming. Even more alarming is that the Corps seems to have already adopted a similar approach in minimizing Mississippi River stakeholder interests by scheduling only two (2) of forty-one (41) MRAPS scoping meetings outside the Missouri River basin. Osprey Group's recommendations about the importance of public involvement and the need for stakeholder acceptance of the MRAPS process are meaningless if overwhelming public and stakeholder input, and economic realities, continue to be ignored as MRAPS proceeds.

Sincerely,

WATSON & JONES, P.A.



David S. Humphreys

*On behalf of
Magnolia Marine Transport Company*

DSH:ew
Attachment

c: John Huyler (johnhuyler@earthlink.net)
Dennis Donald (dennisdonald@earthlink.net)
Timothy M. McCabe (tmccabe.osprey@q.com)

WATSON & JONES, P.A.

COUNSELLORS AT LAW

J. KEVIN WATSON
W. ROBERT JONES, III
DAVID S. HUMPHREYS
C. STEPHEN STACK, JR.
ELIZABETH MILLS BOONE*
A. SETH ROBBINS

RICKY G. LUKE OF COUNSEL

SUITE 1502 • MIRROR LAKE PLAZA
2829 LAKE LAND DRIVE
JACKSON, MISSISSIPPI 39232
www.watsonjoneslaw.com

MAILING ADDRESS:
P.O. Box 23546
JACKSON, MS 39225-3546
TELEPHONE: (601) 939-8900
FACSIMILE: (601) 932-4400
WRITER'S DIRECT NUMBER

(601) 503-1920

*ALSO ADMITTED IN TN

March 26, 2010

Via Email

The Osprey Group
John Huyler (johnhuyler@earthlink.net)
Dennis Donald (dennisdonald@earthlink.net)
Timothy M. McCabe (tmccabe.osprey@q.com)

RE: Comments of Magnolia Marine Transport Company Regarding MRAPS Situation Assessment Public Meeting

Please accept this letter as the comments of our client, Magnolia Marine Transport Company, regarding the Missouri River Authorized Purposes Study (MRAPS) Situation Assessment presented by the Osprey Group at a public meeting held March 8, 2010, in St. Joseph, Missouri. The undersigned attorney for Magnolia Marine attended the meeting and spoke during the public input portion of the meeting.

The proposals presented by the Osprey Group lacked specificity, but it is our understanding from the situation assessment presentation that Osprey Group may recommend that the U.S. Army Corps of Engineers (Corps) form a steering committee made up of state governors-appointed representatives to play some role in the management of MRAPS. It is further our understanding that Osprey Group is seeking input on whether and how to include stakeholders outside the Missouri River basin on such a steering committee and in MRAPS in general.

As we presented at both the New Orleans focus group meeting and the situation assessment meeting in St. Joseph, previous Corps studies have determined that the cost savings to the national economy from barge transportation on the Middle Mississippi, the portion of the Mississippi River most impacted by Missouri River flows, are estimated to exceed **\$1 billion per quarter**; whereas, in the last Missouri River Master Manual review and update process, the Corps determined that all current Missouri River authorized purposes were valued at well less than \$1 billion *per year*.

Recreation interests, whose representatives were the driving force behind MRAPS, were valued at just \$87.4 million per year. Of that \$87.4 million, just \$34.3 million, which is the annual recreation value of the only lakes affected by dam operations, Fort Peck Lake (\$3.3 million), Lake Sakakawea (\$14.9 million), and Lake Oahe (\$16.1 million), could possibly be affected by a change to the Missouri River authorized purposes. Accordingly, the Missouri

River basin interests potentially impacted by MRAPS are insignificant compared to the value of reliable commerce on the Middle Mississippi River.

The previous Corps studies also determined that the huge cost savings from barge transportation on the Middle Mississippi depend largely on the reliability of flows. Shipping interruptions and draft and tow size restrictions caused by low flows diminish the cost savings of barge transportation as shippers are forced to switch to more expensive and less environmentally friendly alternative modes of transportation. In many years, the reliability of Middle Mississippi flows depends heavily on flows from the Missouri River, particularly the flows that support navigation on the Missouri River during summer and fall months. At times in recent years, the Missouri River has contributed more than two-thirds of the water flowing through the Middle Mississippi River.

Shipping interruptions on the Middle Mississippi River occurred with much greater frequency and for much longer durations prior to the Missouri River reservoirs becoming operational in the 1960s, as illustrated on the graphs attached as Exhibit 1 from a 2005 Corps report to the Department of Transportation. Since the Missouri River reservoirs became operational, there have been far fewer lengthy periods of draft and tow size restrictions (illustrated on the top graph), and navigation closures have almost ceased (illustrated on the bottom graph). The recreation interests who instigated MRAPS would like to remove navigation as a primary purpose of the Missouri River system and stop the flows that support navigation on the Missouri River. As such Missouri River flows are essential to the reliability of flows and commerce on the Middle Mississippi, and thus are essential to the enormous relative cost savings from barge transportation on the Middle Mississippi, MRAPS must be focused on preserving, even enhancing, such national economic benefits of barge transportation on the Middle Mississippi.

Accordingly, regarding your inquiry at the situation assessment meeting about whether and how interests outside the Missouri River basin should be included in MRAPS, obviously Mississippi River commerce stakeholders should be represented, including having a dominant presence on any MRAPS steering committee. This means, for example, that if the Corps chooses to utilize a governors-appointed steering committee, then representatives from all Mississippi River basin states (including the states in the Illinois and Ohio River basins and even the Great Lakes region) should be included. Also, because the navigation and shipping interests involved are generally private businesses, the governors of such Mississippi River basin and Great Lakes states should be allowed to appoint non-governmental industry representatives.

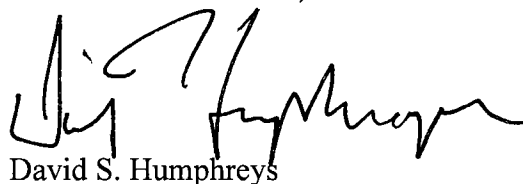
Also, MRAPS should be designed to produce a recommendation that maximizes the Missouri River system's benefits to the national economy. Accordingly, MRAPS should include a comprehensive, objective economic analysis of such benefits, and, because the Missouri River's flows support of Middle Mississippi navigation is by far the greatest economic benefit of the Missouri River system, MRAPS should be focused on how to maximize the system's support of the Middle Mississippi. Regarding the question authorized by Congress to be addressed by MRAPS—whether a change to the authorized purposes is warranted—any such change should

be to an even greater emphasis on navigation, and particularly flows support of Middle Mississippi River navigation.

Thank you for this opportunity to submit comments. Again, because the situation assessment meeting provided little detail about what Osprey Group is ultimately going to recommend to the Corps, these comments are necessarily limited, and Magnolia Marine would welcome the opportunity to provide additional input and participation as MRAPS proceeds.

Very truly yours,

WATSON & JONES, P.A.

A handwritten signature in black ink, appearing to read 'David S. Humphreys', is written over the printed name.

David S. Humphreys

DSH:ew
Attachment

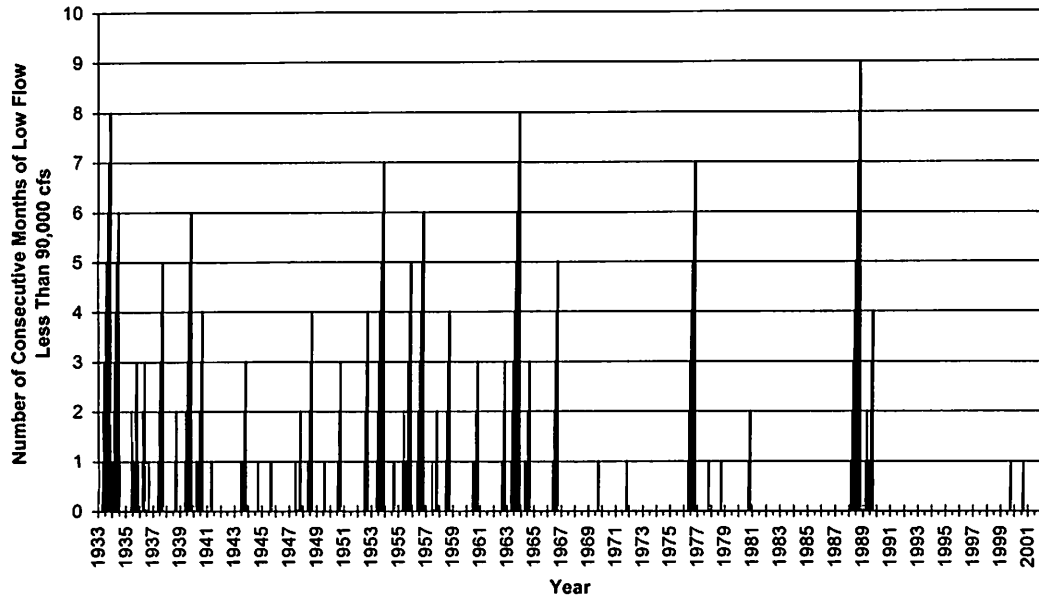


Figure 2.17: Number of consecutive months that average monthly flow at St. Louis is below 90,000 cfs.

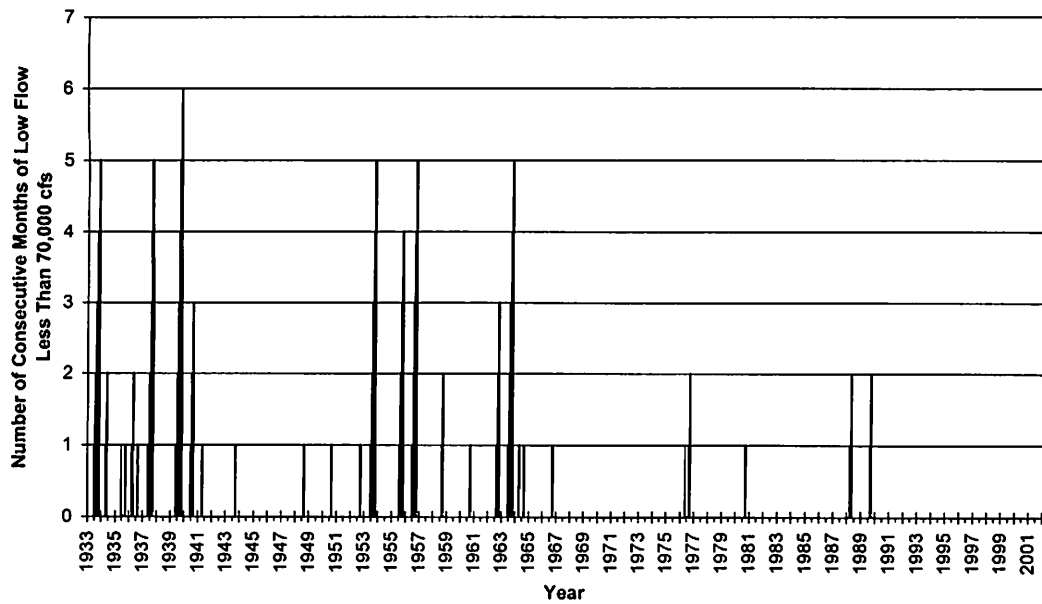


Figure 2.18: Number of consecutive months that average monthly flow at St. Louis is below 70,000 cfs.



ASSOCIATION OF STATES AND TRIBES

May 7, 2010

Ms. Gail Brooks,
U.S. Institute for Environmental Conflict Resolution
Transmitted by e-mail to: brooks@ecr.gov

RE: Comments on the Missouri River Authorized Purposes Study, Situation Assessment Report, April 2010, prepared by the Osprey Group for the USIECR

Dear Ms. Brooks:

This letter provides comments on behalf of the Missouri River Association of States and Tribes (MoRAST) regarding the Missouri River Authorized Purposes Study (MRAPS) Situation Assessment Report prepared by the Osprey Group, dated April, 2010, for the U.S. Institute for Environmental Conflict Resolution (USIECR) and the U.S. Army Corps of Engineers (USACE). In particular, these comments will relate to the proposed "Executive Council" that is recommended as a way to provide a collaboration mechanism for the Missouri River Authorized Purposes Study (MRAPS).

The USACE is implementing MRAPS pursuant to direction by Congress to review the purposes of the Missouri River Projects under the 1944 Flood Control Act in order to determine whether changes to the purposes and existing federal infrastructure may be needed. Given the importance of the Missouri River Projects to the people of the Missouri River Basin, and the extensive nature of the projects and programs involved, MoRAST believes a comprehensive and objective analysis is needed. The development of an effective communications approach for the public and the States, Tribes and other federal agencies is an important element of the study process.

By way of background, it is noted that MoRAST is an association of representatives of the Governors of the States of Wyoming, Montana, North Dakota, South Dakota, Nebraska, Iowa and Kansas and many of the American Indian Tribes in the Missouri River Basin. MoRAST is interested in the proper management and protection of natural resources, including water resources, fish and wildlife and other related issues of interest to the States and Tribes in the basin. The operation of water related projects and programs by the federal agencies in the basin is very important to our members, especially due to the legal responsibilities of the States and Tribes related to water and the fish and wildlife resources, and the trust responsibilities of the federal government to the Tribes. For these reasons, MoRAST interacts extensively with representatives of federal agencies with related responsibilities in the basin. Several federal agencies routinely provide updates on programs and activities of interest at MoRAST meetings and many are involved in discussions through an agency liaison type relationship.

825 S. Kansas Avenue, Suite 500 • Topeka, KS 66612-1253
(785) 235-3247 Office • (785) 221-0807 Mobile • (785) 233-2104 Fax
david.pope@mo-rast.org • www.mo-rast.org

The Situation Assessment Report notes the importance of collaboration, communication and coordination and the need to inform and involve the public and various stakeholder interests during the implementation of MRAPS. It recommends a combination of activities that will simultaneously inform, involve and enhance collaboration with the public and Tribal governments throughout the Missouri River Basin. It proposes a “dialogue” group called an “Executive Council” to provide a mechanism for collaboration assuming a series of operating assumptions. As we understand this proposal, the USACE would convene the group that would include one senior government employee appointed by the Governor of each State and the senior leadership of the USACE. While it would not be a decision-making body, it would allow information and perspectives to be shared and the Council to provide guidance to the USACE. The model assumes a parallel or integrated Tribal Executive Committee, but the Osprey Group will further address this aspect of the report in an addendum after additional discussions with the Tribes.

At its March 16, 2010 meeting, MoRAST reviewed the Osprey preliminary proposal and took action to support the framework for the creation of what at that time was called a “Senior Steering Council”, but the concept is very similar to the recommendation contained in the Situation Assessment Report. However, there is still significant detail that will need to be worked out. MoRAST is willing to work with the USIECR and the USACE to refine the proposal if it is to be utilized. During the discussion of the matter, some concerns were expressed about the creation of a new group when it is so similar to what now exists through MoRAST. Some ideas were discussed, as further outlined below, about how to best use the existing capability that is available and perhaps offer a way to include others as needed.

The Governor is elected by the people of his or her state and serves as the chief executive officer. As a result, it is appropriate for each Governor to appoint a government official to represent the Governor and the people of that state on such a Council. While the details would need to be worked out, we expect that most, if not all, the States would be open to the concept of creating a process in each state to provide information and involvement by appropriate state agencies and stakeholders. Some States already have such groups in one form or another. Likewise, we support inclusion of Tribes on the Executive Council or inclusion in an overall Council, if a separate Tribal Executive Council is established. In short, some mechanism is needed for the States, Tribes and other federal agencies to meet jointly at times with the USACE leadership about MRAPS. We have previously supported the use of a “Cooperating Agency” approach for MRAPS and believe that is also important to the study process to involve State, Tribal and Federal agencies that have specialized expertise that could assist with the study.

There is some concern about creating another organization in the basin when many of the key players are already fully occupied with existing duties and participation in other organizations related to the Missouri River. MoRAST already includes Governor appointed agency heads or senior level officials from seven of the eight states in the basin that actively participate in Missouri River issues. While the State of Missouri does not belong to MoRAST, it is welcome to join. MoRAST also allows full participation and equal representation to the States by the basin’s Tribes. MoRAST is very interested in MRAPS and already includes many of the same officials that would most likely be appointed to such a new Council. The State of Missouri

participated in the organization of MoRAST a few years ago and is eligible to be a member, but has thus far not joined. Action was taken at the March 16, 2010 meeting to extend another invitation for Missouri to join MoRAST. It is currently unknown whether the State of Colorado is interested in participating in such an Executive Council. It has not participated in MoRAST or its predecessor organizations for many years, apparently due to its location and the nature of its legal framework related to the water resources involved.

While the Situation Assessment did not recommend the use of any existing organization in lieu of the proposed Executive Council, MoRAST would be willing to consider serving as a forum for many of the functions apparently being outlined for the proposed Executive Council if such a Council is not separately created, since it includes most of the same people from seven States and includes Tribal membership, along with federal agency involvement. Any States and Tribes not currently involved would be welcome to participate in any such events whether they joined MoRAST or not. If a separate Executive Council is organized, we would recommend that its meetings be coordinated with MoRAST when possible so the time, location and other logistical aspects would not result in extensive additional time and costs to many of the agencies and people involved.

In summary, we believe there is merit in the collaborative approach and concept of an Executive Council as outlined above. Since we recognize that the public and many stakeholders will want to directly participate in the study in some fashion, the States are also willing to help facilitate their involvement to the extent possible. We also suggest the USIECR and USACE consider other related options that would minimize the additional time and cost of creating a new organization. MoRAST is willing to help facilitate options that could help get all the States, Tribes and federal agencies involved in a fair and efficient way.

Please let David Pope, MoRAST Executive Director, or me know if you have questions. Thank you.

Sincerely,



J. Michael Hayden, Chair
Missouri River Association of States and Tribes
Topeka, Kansas
(785) 296-2281 or mike.hayden@outdoors.com

cc: MoRAST Board of Directors
David L. Pope, Executive Director, david.pope@mo-rast.org
Brigadier General John R. McMahon, Commander, USACE Northwestern Division
Witt Anderson, Program Director, USACE Northwestern Division
COL Robert J. Ruch, Commander, USACE Omaha District
COL Roger A. Wilson, Commander, USACE Kansas City District

April 2010 Involvement Situation Assessment Report Comments

Based on my phone interview with the Osprey Group and the one Focus Group session I attended in Omaha Nebraska, I heard general consensus with moving forward with a review of the eight authorized purposes of the 1944 Flood Control Act. However, I did not come away with the conclusion that basin stakeholders were calling for change, let alone major changes in the Act's authorized purposes as indicated in The Osprey Groups' April 2010 Involvement Situation Assessment Report . It appears the conclusions stated appear to differ from the results in which less than 50% asked for major change in Corps operations. We recommend the conclusions be modified to better represent the survey data.

With regard to Ospreys' recommended three-pronged approach to 1) Collaborate 2) Inform and 3) Involve diagramed on page 32 of the report, we agree that existing outreach opportunities (e-mail list serve, press releases, FAQ's, open house/workshops, association meetings, technical working groups, public meeting etc.) should be used to keep stakeholders informed of MRAPS progress. We are concerned however that the recommendations do not include a specific recommendation regarding stakeholder involvement in the process. As noted in the report there is an existing stakeholder involvement process in place, the Missouri River Recovery Implementation Committee (MRRIC). We strongly recommend the Corp use this stakeholder group in an advisory capacity.

We do not support the formation of an Executive Council as structured and outlined in the collaborative portion of the recommendation. As currently envisioned the Executive Council would consist of senior Corps leadership, a basin state representative appointed by each governor, a representative from each pertinent federal agency, and two governmental representative from the Mississippi River Basin. This Executive Committee make-up lacks direct stakeholder involvement and restricts the collaboration process to governmental agencies. Again, it is Nebraska Public Power Districts' recommendation to use MRRIC in the collaborative process and eliminate the Executive Council approach.

Also, adequate time should to be built into the Corps schedule to allow sufficient time for public comments regarding 1) scoping 2) identification of current conditions 3) projected conditions 4) identification of alternatives 5) potential impacts 6) a final environmental impact statement. Additionally, the Corp. should consider stakeholder involvement through workgroups or teams to aid in the development of these steps, not just commenting on a Corp work product after the fact

Please incorporate these recommendations into the assessment report and the Corps processes for the MRAPS study. Thank you for the opportunity to provide feedback.

John J. Shadle

LATHROP & GAGE_{LLP}

DAVID A. SHORR
DIRECT LINE: (573) 761-5005
EMAIL: DSHORR@LATHROPAGE.COM
WWW.LATHROPAGE.COM

314 EAST HIGH STREET
JEFFERSON CITY, MISSOURI 65101
PHONE: (573) 893-4336
FAX: (573) 893-5398

May 7, 2010

VIA E-MAIL TO GAIL BROOKS

brooks@ecr.gov

and UNITED STATES MAIL

U. S. Institute for Environmental Conflict Resolution
130 S. Scott Avenue
Tucson, AZ 85701

Re: Involvement Situation Assessment
Missouri River Authorized Purposes Study

TO WHOM IT MAY CONCERN:

The undersigned represents the Missouri River Dredgers Group. The Missouri River Dredgers Group consists of the six major dredgers on the Lower Missouri River.

The Osprey Group's Involvement Situation Assessment fails to make any significant adjustments from our interim comment letter to The Osprey Group dated March 25, 2010. As a result, we are re-submitting our original comment letter to The Osprey Group as our formal comments to the U. S. Institute for Environmental Conflict Resolution. A copy of that letter is attached as Exhibit A.

Should you have any questions regarding our comments, please feel free to contact me. Otherwise, be advised that we do not concur with the Involvement Situation Assessment's methodology to address public participation under the Missouri River Authorized Purposes Study.

On behalf of the Missouri River Dredgers Group, I am

Very truly yours,

LATHROP & GAGE_{LLP}

By:



David A. Shorr

DAS/jf

LATHROP & GAGE_{LLP}

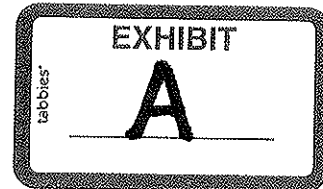
DAVID A. SHORR
DIRECT LINE: (573) 761-5005
EMAIL: DSHORR@LATHROPGAGE.COM
WWW.LATHROPGAGE.COM

314 EAST HIGH STREET
JEFFERSON CITY, MISSOURI 65101
PHONE: (573) 893-4336
FAX: (573) 893-5398

March 25, 2010

*VIA E-MAIL AND
U.S. MAIL*

Mr. Timothy M. McCabe
The Osprey Group
PO Box 8
Boulder, CO 80306



Re: Comment Letter to The Osprey Group

Dear Mr. McCabe:

These are the comments of the Missouri River Dredgers Group regarding your presentation given on March 8, 2010, in St. Joseph, Missouri, regarding a structure for communication and public involvement under the Missouri River Authorized Purposes Study ("MRAPS").

Let me begin by expressing my appreciation for the efforts on behalf of The Osprey Group regarding this important topic. As noted in the March meeting, the focus of participants on the Missouri River debates is distracted from the numerous years and numerous exercises placed before the public and interest groups on this issue. I will attempt to focus my comments strictly on your proposal for a communications process.

I must emphasize, however, our ongoing position that the Missouri River Authorized Purposes Study in any form is a complete waste of \$25 million of taxpayer funds which could be better spent on tangible upgrades to River operations in any part of the Basin. After completing 13 years of effort, litigation, and negotiation on the Master Manual, the MRAPS is redundant. Our comments are provided by section from your power point.

PERCEPTION OF NEED FOR CHANGE

While we recognize your admission that your "survey is not scientifically valid," the need for change should be 100% in that every party believes that their situation could be enhanced, improved, more special, or more profitable. This includes intrinsic values

Mr. Timothy M. McCabe
March 25, 2010
Page 2

such as aesthetics, tranquility, or other “social” values. The Missouri Rivers Dredgers Group believes that major change is necessary to enhance navigation, availability of sand, reduction in energy costs, and numerous other items. We recognize, however, that the Corps is placed in a situation of balancing competing interests and sometimes certainty is the most valuable change of all.

POLITICAL ENVIRONMENT

The introduction of MRAPS into the present 13 studies results in further polarization of the many interests groups which were just beginning to look for opportunities under MRRIC, MRERPS, and the various sediment studies to collaborate. A failure to include the Mississippi River Lower Basin in any exercise will result in a disproportionate impact upon the population of the United States.

TRIBAL RELATIONS

We concur the tribal interests have been neglected in the Basin. Sufficient travel funding for all interests to participate in any formula derived by Osprey is imperative. This has been learned under the structure of MRRIC and a flaw which should not be repeated. Efforts should be made to assure that a high percentage of the 28 tribes are able to come to the table through their representatives. However, it is important for the tribes to come to the table looking for opportunities to move forward versus rehashing a truly unfair past which no one at the table caused.

POPULATION DISTRIBUTION

We believe that population should be considered in the composition of any advisory group or function and concerns weighted accordingly. That does not mean that there are not natural and economic issues that should be neglected by mere majority rule.

OSPREY CONTEXT CONCLUSIONS

Osprey’s context conclusions have merit.

OSPREY PROCESS SUMMARY

We concur with Osprey’s process summary. In particular, we believe that institutions and processes that are working well should be leveraged.

OSPREY’S RECOMMENDATION FOR A SENIOR STEERING COUNCIL

We appreciate Osprey’s recognition that the current collaborative process employed by MRRIC may be too broad and difficult to navigate with a five-year window. However, a steering council with appointees of governors is old news. It has

been tried, and it has failed. MRRIC was an effort to try an alternative. Whether it will succeed remains to be seen. However, a critical player will not participate under a mere one-state, one-vote philosophy. That is the state of Missouri. Until there is a recognition of population in the conversation and decisions are weighted accordingly, the process fails of its own design.

All the representative interests of the present MORAST combined do not meet the population of that of Missouri. Until such time as the 5.8 million citizens of the state of Missouri have an equal say, a gubernatorial-based one-state, one-vote process fails.

Every MRBA vote was 7-1, yet the population represented by that one is never matched by the other seven.

State government employees and their governors do not necessarily represent the interests of those who utilize the Missouri River. A perfect example was presented in St. Joseph whereby residents of Iowa and Nebraska **who lived on the River** believed they were not represented by their state governments. In addition, any proposal that does not include representatives from the Mississippi River that adequately represents the economic influence of the flow of the Missouri River is a skewed and non-representative group to the economics of the inland waterway and violates the national interest.

We believe that a tribal steering council could potentially increase the voice of all the tribes and the participation by reducing economic costs. Provided it does not breach obligations of the United States to consult with the tribes under their various treaties and laws, we would be supportive of an opportunity to enhance tribal views and positions that reduces their economic burden to participate.

Assuming a steering council as composed by Osprey were to come to pass, federal agencies should have input but no representation. Various interests that have significant value on the River should be on the panel. Representatives of states should be included on the panel, and representatives from the Mississippi River Basin should be included on the panel based upon their state interests, their populations, their ports, and their economic investment.

We support executive level Corps of Engineers involvement. We have been impressed with the executive level Corps' involvement in MRRIC.

GENERAL COMMENTS

There are some significant subgroup issues regarding Missouri River authorized purposes. They must be addressed if the MRAPS goes forward.

1. Flood control is not adequately addressed by Basin representatives. Enhancements to flood control, such as the removal of sediment from behind the

Mr. Timothy M. McCabe
March 25, 2010
Page 4

upstream dams and placing it into the lower River, could result in enhanced River quality while increasing flood capacity and protection of life and property.

2. The failure of authorized purposes to be shared should be considered. These includes the prospect for river transportation up into the Dakotas, the providing of low carbon footprint power to Missouri, the enhancement of profitable game fish habitat in the lakes as already established, the provision of potable water to tribes, and the tying down of leakage throughout the Basin to support river activities. National public policy regarding the transportation of coal from the Upper Basin to the remainder of the country via the inland waterway must be examined.


3. The increased certainty of river transportation must be addressed.

As stated earlier, Osprey was thrown into a situation that has a unique and distinct history. We appreciate Osprey's attempts to reveal the context under their obligations to the Corps. We look forward to the final draft for further comment.

Very truly yours,

LATHROP & GAGE LLP

By:


David A. Shorr

DAS/jf



The American Waterways Operators
www.americanwaterways.com

Midcontinent Office
1113 Mississippi Avenue
Suite 108
St. Louis, MO 63104

PHONE: (314) 446-6474
CELL: (314) 308-0378
FAX: (314) 446-6479
E-MAIL: lmuench@vesselalliance.com

Lynn M. Muench
Senior Vice President - Regional Advocacy

May 7, 2010

Ms. Gail Brooks
Program Associate
U.S. Institute for Environmental Conflict Resolution
130 South Scott Avenue
Tucson, AZ 85701

Dear Ms. Brooks:

The American Waterways Operators (AWO) is the national trade association for the inland and coastal tugboat, towboat and barge industry. AWO's more than 300 member companies include the owners and operators of barges and towing vessels operating on the inland and intracoastal waterways, the Atlantic, Pacific and Gulf coasts, and the Great Lakes. The towing industry safely and efficiently moves more than 800 million tons of cargo critical to the U.S. economy, such as coal, grain, petroleum products, chemicals, steel, aggregates and containers. Without the ability to reliably navigate the Missouri and Mississippi rivers, this critical national transportation system and our economy will be profoundly harmed. The national economy depends on waterways transportation for the safe movement of cargo that is either too large or too voluminous to be moved by truck or rail.

AWO sits on the Congressionally authorized Missouri River Recovery Implementation Committee (MRRIC). MRRIC is directed to provide advice to the U.S. Army Corps of Engineers and other federal agencies involved with the operation of the river on the Missouri River Ecosystem Recovery Plan (MRERP) and the Missouri River recovery and mitigation program (MRRP). AWO is also chairman of the Coalition to Protect the Missouri River, which represents the diverse interests of agricultural, navigational, industrial, utility and business-related entities in the Missouri and Mississippi river basins. Thank you for the opportunity to provide comments on the Osprey Group's Missouri River Authorized Purposes Study (MRAPS) Situation Assessment.

As AWO stated in our April 1 comments on the Osprey Group's Situation Assessment, the focus group process was marked by a lack of purpose, transparency and inclusiveness. Many stakeholders had to contact the Osprey Group and/or the Corps repeatedly to gain information about, or an invitation to, the focus groups, or were not included in them at all. These meetings should have been open to all stakeholders, and this has created a lack of confidence that the assessment and its recommendations are based on accurate, nonbiased information.

Regarding the assessment itself, AWO has serious concerns with the Osprey Group's recommendation against a consensus-based approach. There is an urgent need for all stakeholders to be represented in a process that will ultimately determine the authorized purposes

of the river. MRRIC is a consensus-based group that has successfully established a process that unites, instead of divides, the stakeholders of the basin. MRRIC should be involved and provide leadership to the MRAPS process.

AWO is also concerned that the Osprey Group has recommended that an Executive Committee advise the Corps on the study, and that this committee be made up of the Corps, representatives appointed by the Governors of the Missouri River basin states and the pertinent federal agencies, and two representatives from the Mississippi River basin states. It is critical that all stakeholders, especially navigation interests, also have representation on the Executive Committee since the industries that depend on waterborne commerce are critical to the regional and national economies.

AWO thanks the Osprey Group for recognizing the need for Mississippi River basin states representation. The Missouri River contributes as much as two-thirds of the water flowing in the middle Mississippi River. Decreased Missouri River flows means lower Mississippi River water levels, which results in shipping interruptions, draft reductions and tow size restrictions that diminish the cost savings of barge transportation. However, two members are not representative of the entire Mississippi River basin. AWO recommends that each of the nine states in the basin should have the same representation as do the Missouri River basin states.

Finally, AWO supports the “inform” and “involve” components of the Osprey Group’s recommendation. All of the aspects of the assessment that involve keeping stakeholders informed and involved as much as possible are supported by AWO.

Thank you for the opportunity to comment on the assessment. AWO stands by to assist the Corps as it moves forward with MRAPS.

Sincerely,

A handwritten signature in black ink, reading "Lynn M. Muench". The signature is written in a cursive, flowing style with a large initial "L" and "M".

Lynn M. Muench

Marian Maas, Ph.D.
Nebraska Wildlife Federation
13005 S. 33rd Circle
Bellevue, NE 68123

May 7, 2010

Via Email:

The Osprey Group
Ms. Gail Brooks
Mr. Tim McCabe
and
U.S. Institute for Environmental Conflict Resolution

RE: Comments for the *Missouri River Authorized Purposes Study (MRAPS) Involvement Situation Assessment* Final Report by The Osprey Group

Dear Ms. Brooks:

Thank you for this opportunity to provide comments on The Osprey Group's Final Report for the Missouri River Authorized Purposes Study Situation Assessment. I appreciate the efforts of The Osprey Group to obtain input and to bring the compilation and recommendations forward in the limited time available to them. This study is an important step in proceeding forward with a genuine assessment of the authorized purposes and if these are relevant today.

The following are some concerns and specific points which I wish to make regarding the MRAPS, findings of the report, and comments submitted subsequent to The Osprey Group's presentation:

As pointed out in the report, the Pick-Sloan Plan was a "merger of ideas to develop the Missouri River watershed"... "focusing on flood control, navigation, irrigation and power generation". And these four 'uses' have been weighted far more heavily in the management and operation of the river throughout the past 60+ years than the other remaining uses. The mind-set was to use the river and develop the watershed, with no mention of the river's ecosystems or the accompanying floodplain habitats and the species that used the river and its corridor – and this has continued to prevail to this day in the minds of those who oppose MRAPS and restoration efforts. Thus, wildlife and ecosystem features such as wetlands, backwaters, connectivity to the floodplain, natural flows and hydrology, and aquatic and terrestrial habitat have been severely affected and lost altogether along much of the river. With the significant advancement of biological and hydrological sciences in recent years, we now have a much greater understanding of the detrimental impacts that management of the river for the original authorized uses have made to the ecosystem and the wide array of species who inhabit the river, the cottonwoods and riverine/riparian corridors, as well as the adjoining floodplains and the migratory flyway.

It is with this knowledge and the evolving priorities of the public for healthy, restored, and accessible waterways that has made possible the Congressionally authorized MRAPS. Many citizens now recognize and value the importance of protecting natural resources and of restoring

rivers and their ecosystems. It enhances quality of life by providing outdoor recreational activities, opportunities for enjoyment of the environment, and improvement to our communities. But even more importantly, it is the responsibility of the citizenry to protect its natural resources under The Public Trust, and as the responsible pathway to ensure natural, healthy rivers are here for future generations.

This re-evaluation of the eight original authorized uses is, indeed, the “first comprehensive review of the legislation that created the system of dams and reservoirs” in the upper basin and a straightened, channelized river throughout its mid- and lower basin. It is long overdue. The Report correctly states that many “recommend a realignment of purposes to contemporary needs”. As in the management of any continuing project, we have learned that Adaptive Management is a vitally important process as a means to meet changing expectations, cost-benefit analyses, and future needs/goals. MRAPS is Adaptive Management for the operation and management of the river, pure and simple.

Those who see the commitment to the Endangered Species Act and protection of native species as a “major misuse of resources” are misguided. It is my opinion that these individuals do not wish to see MRAPS, or MRRIC, for that matter, be successful. The Report specifically quoted Senator Kit Bond, i.e., “focus on where the majority of users live”, and “The future of the river downstream, where the large majority of users live, remains in energy production, water supply, and energy and cost efficient transportation that is clean”. The Report continued that “this was a common refrain from those who live in Missouri”. (Note: they make no mention of the river’s ecosystem.) I believe that more quotes should have been included from those who wish to see the Missouri River restored, to see a more natural flow regime, to see natural connectivity with the floodplain restored and the restoration of habitats for the many Great Plains species who are dependent upon this river and adjoining floodplains and tributaries.

Indeed, some of these very vocal interests actually wish to see that MRAPS’ funding be stopped and for the study never come to fruition, and, for the Corps of Engineers to have a significantly reduced budget as a means to reduce its restoration efforts. It is important for the Report to clearly state that these strong biases exist and it is their proponents’ intent to outweigh all others.

Tribal or Cultural Resources should be added as an additional purpose, as should Ecosystem Restoration. Re-evaluating the status of the river will clearly show that its natural condition has been exceedingly changed and that even moderate restoration will take years to accomplish. The Missouri River Ecosystem Restoration Plan (MRERP) is developing a preferred alternative for restoration of the river, a process the USACE expects will take 30-50 years. In keeping with this, the establishment of Ecosystem Restoration as one of the authorized uses will ensure that restoration will proceed forward, knowing that the process will take many decades.

As reflected by the interviews, on-line survey, and others, it is the opinion of many that the river management should reduce its emphasis on navigation and irrigation. I support this, as well as emphasizing that Flood Control should be modified in order to allow the river to have some natural movement. Landowners whose fields might be impacted by this would need to be

compensated market value for their crops. Navigation on the river north of St. Joseph, MO has declined substantially, and an in-depth analysis by impartial parties of the cost of maintaining the navigation channel vs. the value of navigation for this reach must be conducted. Maintenance and operational costs for a navigation channel in the Iowa-Nebraska segment of the river is a major component of a budget in these difficult fiscal times. Restoration needs are great in this segment of the river.

Some believe that MRAPS is duplicative of the Master Manual Review and of MRERP. This is not the case. While Master Manual discussions may have included many of the same elements, MRAPS is specifically focused on the review of the original authorized uses and their relevance today. MRERP is a comprehensive analysis of the river's habitats, species, conditions, etc. – none of which has ever been done before. There is definitely a need for both studies. And those who speak of Missouri River “fatigue” or “MR” fatigue, are those special interests who have continually, over many years, been pushing for the Corps to continue to promote non-environmental uses. They have been promoting their interests since the Spring Rise and Master Manual Review more than a decade ago. Many new citizens are taking an interest now, and wish to see a more balance approach used for the river.

I do not wish to see nine Mississippi states included in the proposed Executive Council. They do not belong on this Council. I also do not believe that an Executive Council composed of one state representative is the best route. It is highly likely that the one representative will be directed by the Governor of the state to represent the economic interests, and the very purpose of the Council – to consider the Missouri River and all of its interests – including the environmental aspects of the river, will be diminished.

Thank you for the opportunity to comment.

Yours truly,

Marian Maas, Ph.D.
Nebraska Wildlife Federation

Hello-

As an avid waterfowler, as well as a member of a family that owns property within the Missouri river floodplain in Fremont County, Iowa, I regret the lack of time or opportunity my schedule and this mandated process allows for my input. Therefore, first, I wish to echo the comments of a fellow waterfowler and conservationist, Bill Smith of Sioux City, Iowa, whom I understand has submitted comments to you today as well.

From a fundamental standpoint, I reject any process which is designed to functionally or indirectly maintain the status quo, either through an iterative series of plans, meetings, constituency groups, etc. where the only participants who are able to meaningfully chart the course of policy are those with the commercial treasuries and "government relations" firms available with the time and resources to stick with such a process. Such an approach fatigues many of the stakeholders who do not have an outright commercial gain from the resource and ultimately continues the "less bad" paradigm, no matter how much it is "green-washed". The river, with its historical biological capacity, its future potential, as well as the significance it plays in the lives and culture of nearly half of the CONUS land mass, **deserves much better**. It certainly deserves a regime where consumptive users that require the emasculation of other purposes (e.g. navigation and irrigation promotion necessarily inhibits water quality and biological productivity) bear the true and full cost that the infrastructure necessitated by their uses takes from the public at large, as well as accounts for the loss or suppression of those purposes that benefit the public or that are contained in the public trust assets of the river.

With that said, I wish to address one point contained in the MRAPS Situation Assessment.

Appendix D, Sec. 1 lists flood risk management, water supply, water quality, and power generation taking the top four spots of purposes among in-person interviewees, while, on Appendix E, Sec. 1, water quality and water supply were still in the top four, but fish & wildlife habitat and recreation changed places with flood risk management and power generation. I first question why a "Weighted Average Rating" was necessary and ask how it was applied. But notwithstanding that methodological point, I think the charts do point to a couple of places where the Corps can work first to develop common ground, or at least work on policies with the least amount of exposure to rancor from multiple sides.

1) Something that is consistent between these methods of data collection is that irrigation and navigation are clearly at the bottom of the purpose list. This could be because the public at large is beginning to understand the subsidized nature of these two purposes in that they benefit a narrow scope of only a few commercial interest groups at the expense of a multitude of other users and interested parties. It could be for a number of other reasons. But regardless, I heartily endorse any process which gives these two purposes, and advocates for such purposes, their due regard, i.e. at the bottom of the list.

2) the other thing that is consistent is that there appears to be consensus that water quality and water supply are high-priority uses. But water quality necessarily requires that a number of biological and ecological inputs or conditions be satisfied if water quality is to be maintained and improved. Therefore, I feel that the Corps should, in developing an initial framework in which the technical working groups (if constituted) and the Executive Council, ensure that biological and ecological integrity of the system be incorporated as a common thread throughout each substantive or functional forum of discussion and policy-making, rather than set off as a subject matter or committee unto itself. Come to think of it, water supply purposes would be benefited by such an approach as well, as it is becoming more commonly accepted that using green infrastructure to

mitigate or even reduce deleterious inputs ends up costing less in the long run to deliver drinkable water or water suitable for industrial purposes, than maintaining the status quo of a given resource and processing such water through conventional mechanical or chemical means to deliver the same product.

Thank you for your time and consideration of my comments. Should I be of any further assistance or you seek clarification or additional input on any of these points, please do not hesitate to contact me.

Sincerely,
Ryan Maas
Iowa City, IA



May 7, 2010

DENNIS ZIMMERMAN
PRESIDENT

BRAD ROOS
VICE PRESIDENT

ALLEN THIESSEN
SECRETARY/TREASURER

THOMAS P. GRAVES
EXECUTIVE DIRECTOR

Comments on the U.S. Corps of Engineers' Situation Assessment

The Mid-West Electric Consumers Association ("Mid-West") appreciates the opportunity to comment on the Corps of Engineers' Situation Assessment – the first step in the Missouri River Authorized Purposes Study (MRAPS). This study, along with other undertakings relating to environmental concerns, could play an important role in the future of the Missouri River and the communities in the Great Plains.

To be meaningful, however, the study needs to begin with accurate information. Mid-West finds the initial work on this important effort seriously deficient in base line information and data. This problem is compounded by what Mid-West views as a lack of balance in subsequent scoping meetings.

In December, Corps representatives made a presentation at the Mid-West annual meeting about MRAPS. The power point presentation had one slide comparing the differences in uses of the river between 1944 – when the Flood Control Act of 1944 was passed – and today. We find this presentation badly skewed and unbalanced. While noting the development of flood control and "navigation development," the "today" slide (#9 in MRAPS study_briefing.20091023.pdf) omits any mention of the hydropower development on the river, one of the signal successes of the Flood Control Act. Nor does the 1944 slide mention hydropower as a goal in 1944. This slide was used throughout the initial presentations on MRAPS.

The Situation Assessment report fails to include Minnesota as a state that lies "wholly or partially in the basin" (100308MRAPSAssessmentPresentation.pdf). Minnesota not only lies partially within the basin, but is a direct participant and beneficiary of the Pick-Sloan Missouri Basin Program ("Pick-Sloan"). Every map we consulted about the Missouri river basin reflects that fact. How the Situation Assessment concludes otherwise is incomprehensible. Typically, municipal electric utilities and rural electric cooperatives in the Minnesota marketing area receive more Pick-Sloan hydropower than any other state. Furthermore, the Lewis and Clark rural water system will delivery Missouri river water to Minnesota communities. If the MRAPS study is to achieve its goal, it must include all states in the basin in its base line data.

Furthermore, all states must be included in the conduct of the study. Mid-West understands that Colorado and Minnesota have not yet responded to contacts relating to this study. The study cannot go forward without their participation.

The structure of the focus groups and meetings relating to the situation assessment further compound these distortions. Since the assessment omitted Minnesota as a basin state, no interests from that state were included in focus groups or interviews, nor were the population of Minnesota included in the base line data.

Distribution of focus group meetings was skewed to lower basin states, including two sessions entirely outside of the river basin. Of the nine meetings, only three were conducted in upper basin states. The MRAPS has yet to convene any meeting in Sioux Falls, South Dakota, one of the most populous cities in the upper basin.

Participants in these meetings were also skewed. The overwhelming numbers of interviews were conducted with interests representing environmental interests, along with some recreation interests. Hydropower interests were almost entirely overlooked. Federal and state agencies were also over represented. The study design permitted participation in focus groups (by invitation) of federal and state employees, though not Corps of Engineers employees. These viewpoints, while important, do not represent the stakeholders' interests or those of the general public.

The assessment also drew heavily on interests already participating in the Missouri River Recovery Implementation Committee, including Mid-West. While MRRIC participation is certainly warranted, Mid-West had hoped the study would do further outreach to hear from those not yet involved in the process.

The recommendations of the study on the organizational structure to continue the study in greater detail and development of recommendations is entirely unsupported by any data in the final report. We find no quantification of attitudes on organizational structures for the study. While the study authors may prefer the organization structure they recommend, it appears to be drawn from an already packaged approach to this sort of work. Participants' anecdotal comments, which are rife throughout the final report, add nothing to the analysis.

Similarly, the report baldly states "Missouri is the most populated state in the Basin and the management of the river has a major impact on its citizens and economy." (p. 50) This statement is entirely unsupported by any data in the report.

Mid-West urges the Corps to reject this approach since it does not provide for stakeholder or public input, leaving a select group of governors' appointees in charge of the effort. The Corps should re-evaluate its collaboration process and design one that truly involves stakeholder and community interests.

Mid-West remains committed to participating in this effort and will continue to inform its membership and urge participation, but views this situation assessment report as biased and hardly helpful in getting what is an enormously difficult undertaking off on the right foot. We look forward to working with the Corps of Engineers and other interests to ensure that MRAPS goes forward without the data errors and biases.

Greetings Ms Brooks:

Subject: Comments on the MRAPS Osprey Assessment

I am Stuart Maas of Omaha, Nebraska and Hamburg, Iowa. I have attended several meetings related to this study (Omaha, St Joseph and Bismarck) and many ancillary meetings of MRRIC. I have noticed a distinct bias among some of the attendees, mainly those from Missouri. I am finally compelled to comment because late yesterday, I came upon the Associated Press article below that would appear to validate my conclusion that those stakeholders from Missouri do not really want any study - at all. And ... they are willing to try another means of killing the study and its possible outcomes - even so far as congressional action. The truth - in my opinion - is that they fear any possible changes to the US Army Corps of Engineers management of the river and any habitat restoration what-so-ever.

Missouri lawmakers seek to halt Missouri River study Associated Press Thursday
May 6, 2010 JEFFERSON CITY, Mo. - Several members of Missouri's congressional delegation are pleading with colleagues to halt funding for a study about the Missouri River.

Sens. Kit Bond and Claire McCaskill were joined by Rep. Ike Skelton in a letter Wednesday urging the House and Senate appropriations committees to cancel funding for the study in the next budget. The U.S. Army Corps of Engineers already has scheduled about 30 public hearings to gather comments about the study.

The multiyear study is examining whether changes should be made in the 1944 law setting out the purposes for the river's dams and reservoirs. Those purposes include flood control, hydropower, water supply, irrigation, navigation, recreation, water quality, and fish and wildlife.

As for my further comments:

1. I would like to see what the rail industry has to say about their costs in hauling bulk cargo in the region and more specifically, in the stretch of the River from north of St Joseph, Missouri, to Sioux City, Iowa.
2. The Corps should conduct a serious, rigorous, independent cost-benefit analysis, to include all costs of maintaining the River in that reach, so as to be able to accurately compare barge versus rail costs. I would not be satisfied in taking the word of just one side in this study. The alternative logistical interests ought to be heard. I also suggest that the Corps and the Missouri delegation seek to develop an "advanced plan" for the River in Missouri, so as to make barge traffic on the reach from St Louis to St Joseph as modern and efficient as can be - for the next 30 to 50 years.
3. As for an ecologically healthy river (which is not the same as a "channel"), the River below Sioux City is characterized by many people as a "Ditch" ... and I flinch every time I hear somebody express that view. The commercial fishing, according to the local folks in several river communities tell me that there "is no commercial fishing anymore". This is due to many reasons I am sure. The question is why? Is the ecological degradation of the river one of the reasons and is that allowable?
4. No one is aggressively and courageously speaking for the millions of migratory species that travel through the basin in spring and fall. In the spring, they are "conditioning" for the breeding season further north and the wetland habitats are no longer there -- 80,000 acres in the 6 western Iowa counties that border the River. Quality habitat is nearly as endangered as the three legally

identified endangered species. There are ways to satisfy this need that are compatible with agriculture and the Corps needs to recognize and accept significant responsibility (in cooperation with state agencies, USFWS, and the USDA NRCS) in reconstruction/operation of these temporary, seasonal wetlands. There are millions of birds, (coots, cormorants, shore birds, gulls and terns, crows, hawks, eagles, ducks, geese, swans, cranes etc) that depend on wetland habitat that has disappeared because of "conversion" or degradation of the River's bed. Are these millions of birds not important? ... and who speaks for them? The Study must invite these "Experts" to the table and to the discussion. Ducks Unlimited in Memphis and Delta Waterfowl in Bismarck should be invited to all the discussions (MRRIC, MRERP & MRAPS).

5. The channel south of Sioux City is not a "human friendly" river ... it is dangerous much of the year. Its current is fast and has many undercurrents. It needs to be slowed down and widened so as to still provide the needed "Q" for reliable river traffic below St Joseph. There are alternatives and options that are beyond the current paradigm. Some of these "out-of-the-box options can be in "near-harmony"; they do not need to be "in exact synchrony" for if that were the case, nothing beyond the current situation would need to be done.

6. There is a growing public awareness - beyond that of the River's steep, narrow banks - that demands improvement in the level of environmental and habitat quality - in the basin. Parts of the Platte River could be a model -- it is slower and much more "braided" and migratory birds are abundant.

7. If habitat, in just the River's "bluff-to-bluff confines", were restored or rehabilitated, I would venture that the water quality in the main river would likewise improve. There is a recognized positive relationship.

8. An assessment of the Pick-Sloan Act is way overdue. I would not attempt to take on today's driving challenges with a 1944 Studebaker car that had not been updated, maintained and modernized for 2010 and beyond. Likewise, the "authorized purposes" need to be updated. The environmental status quo is not acceptable; my conscience does not allow it.

Thank you very much. Your group and the Corps have a difficult, but absolutely necessary, challenge ... I am available for further discussion if you wish.

Sincerely,

Stuart Maas
Omaha, NE 68123

Gail Brooks
US Institute for Environmental Conflict Resolution

Ms. Brooks:

I am responding to the invitation to comment on the Involvement Situation Assessment Missouri River Authorized Purposes Study prepared by The Osprey Group. I realize that this response is a bit late, but I hope that you will consider it anyway.

I am Chair of Iowa's State Interagency Missouri River Authority (SIMRA). SIMRA represents five agencies (Iowa Department of Agriculture and Land Stewardship, Iowa Department of Transportation, Iowa Utilities Board, Iowa Department of Economic Development, and Iowa Department of Natural Resources) that are to develop policy for the State of Iowa about the Missouri River. Although we opposed the legislation and funding for the Missouri River Authorized Purposes Study, we recognize that the study is moving forward and we are actively attempting to develop an Iowa Vision for the Missouri River that might be considered by MRAPS. On April 15, 2010, Mark Harberg, Project Manager from the Omaha District, USACE met with us and described the MRAPS program. We have a few comments about The Osprey Group recommendations that we wish to share with you.

We like the proposal for the Executive Council as proposed. All eight authorized purposes must be addressed and a single point of contact for each state seems appropriate to attempt to balance the purposes among each state, tribe and federal agency. It is also appropriate that the body is simply consultative: the responsibility for recommendations is solely with the USACE.

We are delighted that states on the Mississippi River are recognized in The Osprey Group's recommendations for participation on the Executive Council. All states on the Mississippi River receive benefits from the water supplied by the Missouri River. We would like to see both an Upper Mississippi River state (besides Iowa and Missouri) represented, as well as a Lower Mississippi River state. Rivers function both economically and environmentally as a system, and we must address the issues holistically.

We believe that MRAPS should make an attempt to involve Minnesota. This seems appropriate just as Colorado has been apparently identified for participation. Minnesota only has a small amount of drainage into the watershed of the Missouri River, but Minnesotans receive the third largest amount of hydropower among the states from WAPA. It is notable that neither Colorado nor Minnesota has been active in most Missouri River activities, but they contribute water and receive benefits from the River. It is notable that these fringe states also have relatively high populations comparable to Missouri's.

We hope that these recommendations are useful to your evaluation of The Osprey Group's recommendations.

Thank you.

Sincerely,

Bernard Hoyer, Chair
State Interagency Missouri River Authority, Iowa